

estate of Abel Spencer, consisting exclusively of personalty, amounted to \$11,213 69, and his debts, which were all paid before the filing of the present bill, to \$1556.

The bill referred to, as having been filed by Charlotte Spencer, and which it was agreed should be consolidated with this cause, was filed on the 15th of February, 1845. It was filed in the name of Charlotte Spencer, against James A. G. Waters and Sarah Rebecca Marriott, and prayed for a foreclosure, and sale of the mortgaged property for the payment of the debt, &c.

The last named defendant, in her answer, admitted the averments of the bill, and consented to a decree, as prayed; but Waters, though he admitted the loan of the money, and the execution of the mortgage, relied, in bar of the claim of complainant, on the matters alleged in the bill, in this case, by George, administrator of Spencer, against Charlotte Spencer, and others. An order was passed by the Chancellor, in their case, upon the mortgage, for the examination of Sarah Rebecca Marriott, on the part of the complainant, with a saving of exceptions.

The mortgage, which was exhibited with the bill, was executed by James A. G. Waters, to Sarah Rebecca Marriott, on the 28th of November, 1842, and was to secure the payment of the sum of \$800, with interest. The money was, by it, declared to be secured to be paid to the mortgagee, "in trust for the sole and separate use, and exclusive benefit of Charlotte Spencer, free, clear and independent of her present, and any future husband, and of all liability from any such husband's contracts, engagements, or liabilities, and so that it shall not be in the power of the said Sarah Rebecca Marriott, to make the premises hereby conveyed, or said claim, in any way or manner, liable for any indebtedness or liability of any such husband."

Proofs have been taken under the commission, which issued for that purpose, and the case having been argued before, is now to be decided.

Upon a careful examination of the proofs, in this case, my